



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

AUG 04 2016

Mr. Robert Jamieson, Plant Manager
The Maine Wild Blueberry Company
78 Elm Street
Machias, Maine 04654

Re: (1) Draft Notice of Violation and Administrative Order on Consent Issued Pursuant to Section 113 of the Clean Air Act, 42 U.S.C. § 7413; and (2) Request for Information Issued Pursuant to Section 114 of the Clean Air Act, 42 U.S.C. § 7414

Dear Mr. Jamieson:

Enclosed please find a draft Notice of Violation and Administrative Order on Consent ("NOV/AOC") that EPA proposes to issue pursuant to Section 112(r) of the Clean Air Act ("CAA" or "Act"), 42 U.S.C. § 7412(r), for violations of the Act's risk management program regulations, set forth at 40 C.F.R. Part 68 ("RMP regulations"). This letter also contains an attached Information Request issued pursuant to Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), which requires submission of certain information needed to assess compliance with the Act.

On October 30, 2012, the United States Environmental Protection Agency Region 1 ("EPA") conducted an inspection of the facility operated by The Maine Wild Blueberry Company ("Maine Wild Blueberry") located at 78 Elm Street, Machias, Maine (the "Facility"). The purpose of this inspection (the "Inspection") was, in part, to evaluate Maine Wild Blueberry's compliance with Section 112(r) of the Act, 42 U.S.C. § 7412(r), and the RMP regulations. The goal of Section 112(r) and the RMP regulations is to prevent accidental releases of substances that can cause serious harm to public health and the environment.

Information Request

During the Inspection, my staff observed violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), in the anhydrous ammonia refrigeration process at the Facility. Maine Wild Blueberry representatives were unable to answer some questions asked by EPA during the Inspection and did not provide complete information to EPA following the Inspection.

In order to obtain answers to the questions Maine Wild Blueberry did not answer during or after the Inspection and to fully assess compliance with CAA Section 112(r), under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a

company to submit such information as EPA may reasonably require to determine compliance with and to carry out the purposes of the CAA, EPA requests responses to the attached Information Request (Attachment 2). Please submit your responses and the signed "Statement of Certification" (Attachment 1) **within thirty (30) calendar days of your receipt of this letter** to:

Leonard B. Wallace, Environmental Scientist
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Mail Code OES05-1
Boston, MA 02109-3912

with a copy to

Ronald A. González, Senior Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-3
Boston, MA 02109-3912

Please be advised that compliance with this Information Request is mandatory. Failure to provide the information requested may result in one or more of the following actions: (1) issuance of an administrative penalty order pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d); (2) issuance of an order requiring compliance with this request pursuant to Section 113(a) of the Act, 42 U.S.C. § 7413(a); (3) commencement of a civil action in accordance with Section 113(b) of the Act, 42 U.S.C. § 7413(b); and/or any other action authorized under the Act. Please be further advised that submittal of false, fictitious, or fraudulent statements may subject you to criminal penalties under Section 113(c) of the Act, 42 U.S.C. § 7413(c). This reporting requirement is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

Under Section 114(c) of the Act, 42 U.S.C. § 7414(c), and pursuant to regulations at 40 C.F.R. Part 2, including 40 C.F.R. § 2.301, you are entitled to show that any information that you provide to EPA involves trade secrets and is regarded as confidential business information and request that such information be treated as confidential. Any such claim for confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b).

As noted above, a "Statement of Certification" must accompany your response to this Reporting Requirement. The statement must be signed and dated. This statement certifies that the response submitted to EPA is complete and contains all documents and information responsive to this request that is known to you following a complete and thorough review of all information and sources in your possession, control, or custody. Failure to properly certify, or submission of a fraudulent certification, may result in criminal proceedings against you.

Draft Notice of Violation/Administrative Order on Consent

The draft NOV/AOC orders Maine Wild Blueberry to correct the identified violations. EPA is electing to share a draft version of the NOV/AOC with you at this time so that the information

you provide in response to the Information Request may be incorporated into the Final NOV/AOC, and to offer you the opportunity to provide EPA with comments regarding the factual allegations contained in the NOV/AOC. For example, EPA recognizes that over three years have passed since the October 2012 Inspection, when EPA brought many of these deficiencies to Maine Wild Blueberry's attention. Unfortunately, due to resource constraints, EPA has not been able to respond formally to these deficiencies until now. EPA hopes that, in the last three years, some of these issues have already been addressed and welcomes updated compliance information. **If you have such information or other comments on the draft NOV/AOC, please provide them in writing to EPA within thirty (30) days of your receipt of this letter.** This information may accompany your responses to the Information Request above or arrive under separate cover. EPA would like to issue a Final NOV/AOC, whether identical to this draft or modified in response to your timely-provided information and comments, no more than sixty (60) days from your receipt of this draft.

Note that the issuance of this NOV/AOC does not preclude EPA from electing to pursue further enforcement pursuant to the CAA, the Emergency Planning and Community-Right-to-Know Act, or any other federal statute that may apply. EPA plans to follow up the NOV/AOC with an enforcement action for penalties. If Maine Wild Blueberry is cooperative during the NOV/AOC phase of enforcement, EPA may be able to provide a "good faith" adjustment to the penalty at the penalty phase.

EPA encourages you to give this matter your immediate attention and to respond with your comments regarding the draft NOV/AOC and responses to the Information Request within the time specified above. Should you wish to discuss this matter, please contact Leonard Wallace at (617) 918-1835. If you have any legal questions, or if your attorney wishes to communicate with EPA on your behalf, please contact Ronald González, Senior Enforcement Counsel, at (617) 918-1786. Mr. Wallace and Mr. González will be able to meet you at the EPA Region 1 office in Boston, if you wish.

Sincerely,



Susan Studlien, Director
Office of Environmental Stewardship

cc: Leonard B. Wallace, EPA
Ronald A. Gonzalez, EPA

Enclosures:

1. Statement of Certification
2. Information Request
3. Draft Notice of Violation and Administrative Order on Consent

ATTACHMENT 1

Instructions: Complete and Include With Your Response.

STATEMENT OF CERTIFICATION

I certify under penalty of law that I have personally examined the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment.

Robert Jamieson
Plant Manager, The Maine Wild Blueberry Company

Date

ATTACHMENT 2

THE MAINE WILD BLUEBERRY COMPANY ("MWB") INFORMATION REQUEST

Guidance on How to Respond. You must submit all responsive documents. Please respond separately to each of the questions, referencing each question by paragraph or subparagraph number in your answer. The response must include copies of all documents that you reference in your response or which you feel are relevant to the information being requested.

As part of your response, please complete the enclosed declaration (Attachment 1) and provide a cover letter carefully specifying what documentation is included to answer each question. (If documents requested in response to one item duplicate those requested by another question, submit only one copy of the documentation.) Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to these questions become known or available after answering this request, including, but not limited to, specific information that may be deemed unknown at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Leonard Wallace of this fact as soon as possible and provide EPA with a corrected response.

Confidential Business Information. The information requested herein must be provided even though MWB may contend that it includes possible confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Section 114(c) of the CAA, 42 U.S.C. § 7414(c), and 40 C.F.R. Section 2.203(b), by attaching to such information at the time it is submitted a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," or "proprietary," or "company confidential." Information covered by such a claim will be disclosed by EPA only to the extent, and only by means, of the procedures set forth in the statute and regulation identified above. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.

Please note the burden of proof is on you to demonstrate that information claimed as confidential satisfies the criteria set forth in 40 C.F.R. § 2.208. If any portion of your response contains information which you claim as confidential, you must submit two copies of any such "confidential business information" in accordance with the following procedures:

- (1) The first copy of any document containing such "confidential business information" must be complete and contain all information. Additionally, each such page must be marked conspicuously to indicate that it is claimed as confidential.
- (2) The second copy of any document that is subject to a CBI claim must be redacted so that it contains only information that is not claimed as confidential.

Definitions. The following definitions shall apply to the following words as they appear in this Attachment 2:

The terms “you” or “MWB,” “Maine Wild Blueberry” or “The Maine Wild Blueberry Company” shall include The Maine Wild Blueberry Company, the addressee of this Request, as well as the addressee’s officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents.

The term “person” shall have the same definition as in Section 302(e) of the CAA (*i.e.*, an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or any agency, department, or instrumentality of the United States, and any officer, agent, or employee thereof).

The term “Facility” means the buildings, tank farms, outdoor processing and storage areas, and other buildings (including all physical structures) owned or operated by The Maine Wild Blueberry Company at 78 Elm Street (Route 92), Machias, Maine.

The term “document” means any object that contains, records, stores or presents information, whether in paper, electronic or any other form. The term “document” includes the original or an identical and readable copy thereof, and all non-identical copies (whether different from the original by reason of notation made on such copies or otherwise).

The term “identify” means, with respect to a natural person, to set forth the person’s name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

The term “identify” means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (*e.g.*, corporation, limited liability company, partnership, etc.), organization, if any, and a brief description of its business.

The term “identify” means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.

The term “RMP” means a Risk Management Plan required by Section 112(r)(7) of the Clean Air Act, 42 U.S.C. § 7412(r)(7), and the regulations found at 40 C.F.R. Part 68.

The terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the Clean Air Act or the regulations found at 40 C.F.R. Part 68, in which case the statutory or regulatory definitions shall apply.

A requested document, item or information shall be deemed to be in your possession, custody or control if you know where it is and can obtain access to it, even if it is not presently in your possession.

Questions

Provide a separate numbered response to each numbered paragraph or subparagraph below. **To the extent that you believe that you have answered a question in another section, please refer to the section and answer you have provided.**

Compliance Audits

1. Please identify all compliance audits of the anhydrous ammonia refrigeration process at the Facility conducted pursuant to 40 C.F.R. § 68.79 from 1994 to present. Provide a copy of all reports prepared documenting the compliance audits conducted since March 24, 2011, as well as documentation of actions taken in response to those compliance audits, including when those actions were completed.

Process Hazard Analyses

2. Please provide a copy of the most recent process hazard analysis ("PHA") conducted pursuant to 40 C.F.R. § 68.67 for the anhydrous ammonia refrigeration process at the Facility, as well as documentation of any actions taken in response to that PHA and the March 2011 PHA, when those actions were completed, and for any actions that have not been completed in response to those PHAs, a schedule of when future actions will be completed.

Process Safety Information

3. Please provide a full-sized copy of the block flow diagram or simplified process flow diagram for the anhydrous ammonia refrigeration process at the Facility prepared pursuant to 40 C.F.R. § 68.65(c)(1)(i) in effect at the time of the October 2012 Inspection, and full-sized copies of each subsequent modification to that diagram.

Management of Change

4. Please describe and provide supporting documentation of actions taken pursuant to 40 C.F.R. § 68.75, if any, to manage changes to the anhydrous ammonia refrigeration system chemicals, technology, equipment, and procedures as of the date of the October 2012 Inspection and currently.

Emergency Response

5. Please provide copies of the emergency response plans, if any, for the Facility, prepared pursuant to 40 C.F.R. § 68.95 that were in effect as of the date of the October 2012 Inspection and currently.
6. Please describe how and when the Facility has coordinated with local emergency responders to ensure the Facility was included in the community emergency response plan(s) pursuant to 40 C.F.R. § 68.90(b)(1) at the time of the October 2012 Inspection and currently.

Company and Cost Information

7. Please provide the net worth of The Maine Wild Blueberry Company.

8. Please provide the cost of any work that Maine Wild Blueberry has done since October 2012 to bring the Facility into compliance with the RMP regulations at 40 C.F.R. Part 68, itemized by item.